

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MICHAEL RODIO,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION
)	NO. 04-10006 JGD
)	
R.J. REYNOLDS)	
TOBACCO COMPANY,)	
)	
Defendant.)	

ORDER ON DEFENDANT’S MOTION TO COMPEL

This matter is before the court on “Defendant’s Motion to Compel Pursuant to Fed. R. Civ. P. 37 and L.R. 37.1” (Docket #15) relating to the defendant’s challenge to the plaintiff’s answers to Interrogatory Nos. 1, 2 and 3 of the defendant’s First Set of Interrogatories, and to the plaintiff’s response to Request No. 1 of the defendant’s First Set of Requests for Production. After reviewing the submissions and considering the parties’ arguments, the motion is ALLOWED IN PART and DENIED IN PART as follows:

1. Interrogatories: The court hereby rules on the defendant’s motion to compel further answers to interrogatories as follows:
 - (a) Interrogatory No. 1: DENIED except for the supplementation ordered herein. The plaintiff shall supplement his answer to

Interrogatory No. 1 to confirm that he has produced (or will produce) the specific documents identified in the defendant's reply brief.

(b) Interrogatory No. 2: DENIED except for the supplementation ordered herein. The plaintiff shall supplement his answer to Interrogatory No. 2 to confirm that the individuals identified in Interrogatory No. 5 and in the plaintiff's initial disclosures are the only individuals he may call as fact witnesses at trial. Any individual who is not identified in the supplemental answer nor in the plaintiff's initial disclosure shall be precluded from testifying without a showing of good cause.

(c) Interrogatory No. 3: DENIED.

2. Request for Production: DENIED as moot in light of the plaintiff's supplemental answer to Interrogatory No. 1.
3. Supplemental Answers to Interrogatories: The plaintiff shall provide the defendant with supplemental answers referred to in paragraph 1 above no later than **November 16, 2004**.

DATED: November 8, 2004

/ s / Judith Gail Dein
Judith Gail Dein
United States Magistrate Judge